

**ONTARIO SUPERIOR COURT OF JUSTICE**

RE: Michelle Vieira, Applicant

*-and-*

Richmond Hill Co-Operative Homes Inc., Respondent

BEFORE; Justice D.G. Stinson

COUNSEL: *Scott G. Lemke*, for the Applicant

*B. Woodrow*, for the Respondents

HEARD: December 7, 2015

**ENDORSEMENT**

[1] For oral reasons delivered in open court, the decisions of the Board and the membership purporting to terminate the applicant's membership are set aside. A declaration shall issue that the applicant's membership and occupancy rights in the respondent's development continue. The parties agree that the applicant shall be offered the first three bedroom unit that becomes available, pending such a unit becoming available, she shall be offered the opportunity to occupy the first two bedroom unit that becomes available, provided the Region of York authorities are content that she and her children may occupy a two bedroom unit temporarily.

[2] In relation to costs, despite applicant's success respondent submits no cost award should be made because the point on which the applicant succeeded was novel. While that may be so, it remains that I found the respondent acted without jurisdiction, forcing the applicant to resort to court proceedings. In my view it would be unfair to require her to personally absorb the cost of the litigation.

[3] I fix applicant's costs at \$20,000.00 – all inclusive, a number acknowledged by respondent's counsel as a reasonable sum were I to award costs. That sum shall be paid by respondent within 30 days.

David G. Stinson, J.

\*This Endorsement has been electronically reprinted by the office of Lemke Law Professional Corporation.